UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,497	08/28/2003	Paul A. Blowers	P0011281.00/LG10126	6963

27581 7590 07/25/2011

Medtronic, Inc. (CRDM)
710 MEDTRONIC PARKWAY NE
MS: LC340 Legal Patents
MINNEAPOLIS, MN 55432-9924

EXAMINER	
REYES, REGINALD R	

ART UNIT	PAPER NUMBER
3626	

NOTIFICATION DATE	DELIVERY MODE
07/25/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

rs.docketingus@medtronic.com
medtronic_crdm_docketing@cardinal-ip.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/650,497
Filing Date: August 28, 2003
Appellant(s): BLOWERS ET AL.

Shumaker & Sieffert P.A.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 5/10/11 appealing from the Office action mailed 10/12/10.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1, 3-11, 13-22, 24-29, 31-36, 38-43, 45-47.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

5944745	Rueter	8-1999
20040122294	Hatlestad	6-2004
6292698	Duffin	9-2001
5920271	Hwang	7-1999
7060031	Webb	6-2006
5434611	Tamura	7-1995

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1, 3, 4, 7, 8, 9, 10, 11, 13, 16-19, 22, 24-25, 28-29, 31, 32, 33, 34, 35, 36, 38, 39-41 and 43, 47 are rejected under 35 U.S.C. 103(a) as being obvious by Rueter

U.S. Patent Number 5,944,745 in view of Hatlestad et al (U.S. 2004/0122294) and Duffin et al (U.S. Patent Number 6,292,698).

2. With respect to claims 1, 8, 17, 29, 33 and 39 Rueter teaches a method comprising: one or more remote monitors, wherein the one or more remote monitor obtain the events from interrogation of a medical device implanted within a patient, and with the prioritization engine, the received events and presenting, with a user interface device, a list of the events based on the prioritization (see for example 1 lines 44-48 and lines 65-67 and column 2 lines 1-9 and column 2 lines 10-25 and column 3 lines 33-36).

Reuter does not teach wherein the events include therapy events and diagnostic events nor does it teach receiving the events from a remote monitor. Hatlestad teaches the prioritizing engine to be external (see for example Hatlestad paragraph 87-88, 92-93 and 176-181 and Figs 10, 27-28). Hatlestad teaches data that includes therapy and diagnostic data (see for example Hatlestad paragraph 41). Hatlestad further teaches a remote monitor that can access the PDA/prioritization engine (see for example Fig. 7 and paragraphs 87-88).

Rueter in view of Hatlestad does not teach prioritizing events obtained from a plurality of medical devices implanted in different patients; and presenting a list of the patients and a list of the events for each of the patients based on the prioritization. Duffin teaches, a management system for monitoring implanted medical devices that provides data collection to one central site from all study patients (see for example Duffin column 14 lines 25-29).One of ordinary skill in the art at the time of invention would have found it obvious to combine the prioritizing method taught by Reuter with

the features of Hatlestad to and the telemetry system for implantable medical devices taught by Duffin to prevent the implanted device from being overworked.

3. With respect to claims 3, 9, 11, 22, 24, 31, 34, 36 and 43, 47 Rueter in view of Hatlestad and Duffin teaches the method of claim 1 (as described above). Rueter teaches wherein prioritizing events includes prioritizing the events based on a relative importance associated with the events (see for example Rueter column 1 lines 65-67 and column 2 lines 1-9).

4. With respect to claims 4, 13, 25, 32 and 38 Rueter in view of Hatlestad and Duffin teaches the method of claim 1 (as described above). Rueter teaches further comprising invoking a special action in response to an event with a relative importance that exceeds a threshold (see for example Rueter column 7 lines 66-67 and column 8 lines 1-4).

5. With respect to claim 7, 16 and 28 Rueter in view of Hatlestad and Duffin teaches the method of claim 4 (as described above). Duffin teaches wherein the special action includes generating an alarm, notifying a clinician, and notifying a patient (see for example Duffin column 3 lines 13-19 and column 14 lines 3-15). It would have been obvious to one of ordinary skill in the art at the time of application to combine both features to better monitor patients and their implanted medical devices.

6. With respect to claims 10 and 35 Reuter in view of Hatlestad and Duffin teaches the method of claim 8. Hatlestad teaches further comprising assigning the relative importance based on a set of rules (see for example Hatlestad paragraph 176). One of ordinary skill in the art at the time of invention would have found it obvious to combine the prioritizing method taught by Reuter with the features of Hatlestad with the same reason mentioned above.

7. With respect to claims 18 and 40, Rueter in view of Hatlestad and Duffin teaches the system of claim 17 (as described above). Duffin teaches further comprising a data management application that parses raw data from the implantable medical device, and populates fields of a database with event data (see for example Duffin column 13 lines 65-67 and column 14 1-3). It would have been obvious to one of ordinary skill in the art at the time of application to combine both features to get an updated data.

8. With respect to claims 19 and 41 Rueter in view of Hatlestad and Duffin teaches the system of claim 18 (as described above). Duffin teaches wherein the event data comprises one of patient name, device type, date event data was parsed, and event type (see for example Duffin column 14 lines 45-54). It would have been obvious to one of ordinary skill in the art at the time of application to combine both features to gather effective data.

9. Claims 5, 6, 14, 15, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rueter U.S. Patent Number 5,944,745 in view of Hatlestad et al (U.S. 2004/0122294) and Duffin et al (U.S. Patent Number 6,292,698) and Hwang U.S. Patent Number 5,920,271.

10. With respect to claims 5, 14 and 26 Rueter in view of Hatlestad and Duffin teaches the method of claim 4 (as described above). Rueter in view of Hatlestad does not teach wherein the special action comprises using a conspicuous text format when presenting data from the event. Hwang teaches wherein the special action comprises using a conspicuous text format when presenting data from the event (see for example Hwang column 5 lines 58-67). It would have been obvious to one of ordinary skill to combine both features to alert the user the importance of certain messages are.

11. With respect to claims 6, 15, and 27 Rueter in view of Hatlestad, Duffin and Hwang teaches the method of claim 5 (as described above). Hwang teaches wherein the conspicuous text format includes one of font, bold text, highlighted text, underlined text, and italicized text (see for example Hwang column 5 lines 58-67). It would have been obvious to one of ordinary skill to combine both features to alert the user the importance of certain messages are.

12. Claims 20, 21 and 42, 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rueter U.S. Patent Number 5,944,745 in view of Hatlestad et al (U.S.

2004/0122294) and Duffin et al (U.S. Patent Number 6,292,698) and Webb et al U.S. Patent Number 7,060,031.

13. With respect to claim 20 Rueter in view of Hatlestad and Duffin teaches the system of claim 17 (as described above). Rueter in view of Hatlestad does not further comprising a database to store the prioritized events, wherein the user interface device includes a web browser to access the prioritized events via a network connection. Webb teaches further comprising a database to store the prioritized events, wherein the user interface device includes a web browser to access the prioritized events via a network connection (see for example Webb column 13 lines 66-67 and column 14 lines 1-2 and Fig 4). It would have been obvious to one of ordinary skill in the art to combine the features to have better accessibility to the database.

14. With respect to claim 21, 46 Rueter in view of Hatlestad, Duffin and Webb teaches the system of claim 20 (as described above). Webb teaches further comprising a derivation engine to generate additional events based on the stored events (see for example Webb column 17 lines 63-67 and column 18 lines 1-15 and Fig 7A).

15. With respect to claim 42 Rueter in view of Hatlestad, Duffin and Webb teaches the system of claim 39 (as described above). Webb teaches further comprising a derivation engine to generate additional events based on the stored events (see for example Webb column 17 lines 63-67 and column 18 lines 1-15 and Fig 7A). Therefore

it would have been obvious to one of ordinary skill in the art to combine both arts to better service the clients.

16. Claims 45 are rejected under 35 U.S.C. 103(a) as being obvious by Rueter U.S. Patent Number 5,944,745 in view of Hatlestad et al (U.S. 2004/0122294) and Duffin et al (U.S. Patent Number 6,292,698) and Tamura (5,434,611).

17. With respect to claim 45 Rueter in view of Hatlestad and Duffin teaches the method of claim 1. Reuter in view of Hatlestad and Duffin does not teach wherein presenting, with a user interface device, the list of the patients and the list of the events comprises presenting the list of the patients and the list of the events such that the clinician can simultaneously view events obtained from multiple implantable medical devices associated with multiple patients. Tamura teaches a terminal that the voice information and the images which have been sent from the cameras and the sender-receiver terminals are received in the time sharing manner by the monitoring television receiver and the transmitter-receiver of the doctor's terminal 130 in the medical office. As a result, a plurality of patients can be automatically monitored (see for example Tamura column 5 lines 35-49). One of ordinary skill in the art at the time of invention would have found it obvious to combine the features of Reuter, Hatlestad and Duffin with the home health care system which employs a two-way community antenna television network to permit communication between a doctor and patients at different locations with the motivation of patients can be automatically monitored at home using

images and voice by the doctor in the medical office, without hindrance to normal CATV broadcasting.

(10) Response to Argument

With respect to Claim 1, 3, 4, 7 Appellant argues that the prior art fails to disclose or suggest the limitation of prioritizing, with the prioritization engine, the received events; and the presenting, with a user interface device, a list of patients and a list of the events for each patients based on the prioritization. Examiner respectfully disagrees.

The prior art in combination teaches the limitation. Rueter in column 1 lines 65-67 and column 1 lines 1-9, teaches the CPU performs all monitoring and data collection and from that collected data determines which data takes on clinical significance. Once the CPU determines that an event is clinically significant, the CPU will allocate memory in the RAM for storage of data with respect to that event If the available memory is full the CPU determines whether the new event is either more important than a previously stored event. If so, then the previously stored event is overwritten by data from the new event or the old, new, or both old and new data are compressed so that both can be stored. *In this case, the prioritization engine is the CPU.*

Furthermore Hatlestad teaches synthesize the at least one environmental parameter with the at least one IMD parameter and to report resulting data for use to assist with patient health care decisions (*presenting, with a user interface device, a list*

of patient and a list of the events for each patient based on the prioritization) as shown on Claim 14.

Reuter and Hatlestad teaches the limitations above, however it does not explicitly, teach that it is performed for multiple patients, and that is where Duffin is used. As stated in the Final Rejection, Duffin teaches, a management system for monitoring implanted medical devices that provides data collection to one central site from all study patients (see for example Duffin column 14 lines 25-29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rueter, Hatlestad and Duffin. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable

With respect to claim 8-11, 13, 16 Appellant argues that the prior art does not teach interrogating, with *one or more monitors*, a plurality of medical devices implanted in different patients to obtain event data, receiving with a prioritization engine, the event data from one or more remote monitors, wherein the event data describes a plurality of events that includes at least a therapy event and a diagnostic event, and wherein the prioritization engine is external to the patients and assigning the prioritization engine a relative importance to each of the events described by the received event data. Examiner respectfully disagree.

The prior art in combination teaches the limitation. Rueter in column 1 lines 65-67 and column 1 lines 1-9, teaches the CPU performs all monitoring and data collection and from that collected data determines which data takes on clinical significance. Once the CPU determines that an event is clinically significant, the CPU will allocate memory in the RAM for storage of data with respect to that event If the available memory is full the CPU determines whether the new event is either more important than a previously stored event. If so, then the previously stored event is overwritten by data from the new event or the old, new, or both old and new data are compressed so that both can be stored. *In this case, the prioritization engine is the CPU.*

Furthermore Hatlestad teaches synthesize the at least one environmental parameter with the at least one IMD parameter and to report resulting data for use to assist with patient health care decisions (*presenting, with a user interface device, a list of patient and a list of the events for each patient based on the prioritization*) as shown on Claim 14. Hatlestad teaches the prioritizing engine to be external (see for example Hatlestad paragraph 87-88, 92-93 and 176-181 and Figs 10, 27-28). Hatlestad teaches data that includes therapy and diagnostic data (see for example Hatlestad paragraph 41). Hatlestad further teaches a remote monitor that can access the PDA/prioritization engine (see for example Fig. 7 and paragraphs 87-88).

Reuter and Hatlestad teaches the limitations above, however it does not explicitly, teach that it is performed for multiple patients, and that is where Duffin is used. As stated in the Final Rejection, Duffin teaches, a management system for

monitoring implanted medical devices that provides data collection to one central site *from all study patients* (see for example Duffin column 14 lines 25-29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rueter, Hatlestad and Duffin. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

With respect to claim 17-19, 22, 24, 25, 28, 47 Appellant argues that the prior art does not teach interrogating, with *one or more monitors*, a plurality of medical devices implanted in different patients to obtain event data, receiving with a prioritization engine, the event data from one or more remote monitors, wherein the event data describes a plurality of events that includes at least a therapy event and a diagnostic event, and wherein the prioritization engine is external to the patients and assigning the prioritization engine a relative importance to each of the events described by the received event data. Examiner respectfully disagree.

The prior art in combination teaches the limitation. Rueter in column 1 lines 65-67 and column 1 lines 1-9, teaches the CPU performs all monitoring and data collection and from that collected data determines which data takes on clinical significance. Once the CPU determines that an event is clinically significant, the CPU will allocate memory in the RAM for storage of data with respect to that event If the available memory is full

the CPU determines whether the new event is either more important than a previously stored event. If so, then the previously stored event is overwritten by data from the new event or the old, new, or both old and new data are compressed so that both can be stored. *In this case, the prioritization engine is the CPU.*

Furthermore Hatlestad teaches synthesize the at least one environmental parameter with the at least one IMD parameter and to report resulting data for use to assist with patient health care decisions (*presenting, with a user interface device, a list of patient and a list of the events for each patient based on the prioritization*) as shown on Claim 14. Hatlestad teaches the prioritizing engine to be external (see for example Hatlestad paragraph 87-88, 92-93 and 176-181 and Figs 10, 27-28). Hatlestad teaches data that includes therapy and diagnostic data (see for example Hatlestad paragraph 41). Hatlestad further teaches a remote monitor that can access the PDA/prioritization engine (see for example Fig. 7 and paragraphs 87-88).

Reuter and Hatlestad teaches the limitations above, however it does not explicitly, teach that it is performed for multiple patients, and that is where Duffin is used. As stated in the Final Rejection, Duffin teaches, a management system for monitoring implanted medical devices that provides data collection to one central site *from all study patients* (see for example Duffin column 14 lines 25-29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rueter, Hatlestad and Duffin. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did

separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

With respect to claim 29, 31, 32 Appellant argues that the prior art does not disclose instructions for causing a programmable processor to.....prioritize the received events..... and a list of patients and a list of the events for each patients based on the prioritization. Examiner respectfully disagrees.

The prior art in combination teaches the limitation. Rueter in column 1 lines 65-67 and column 1 lines 1-9, teaches the CPU performs all monitoring and data collection and from that collected data determines which data takes on clinical significance. Once the CPU determines that an event is clinically significant, the CPU will allocate memory in the RAM for storage of data with respect to that event If the available memory is full the CPU determines whether the new event is either more important than a previously stored event. If so, then the previously stored event is overwritten by data from the new event or the old, new, or both old and new data are compressed so that both can be stored. *In this case, the prioritization engine is the CPU.*

Furthermore Hatlestad teaches synthesize the at least one environmental parameter with the at least one IMD parameter and to report resulting data for use to assist with patient health care decisions (*presenting, with a user interface device, a list of patient and a list of the events for each patient based on the prioritization*) as shown on Claim 14. Hatlestad teaches in paragraph 58 the IMD (implantable medical device) includes a program executing on an internal processor that controls the operation of the

IMD. The program instructions reside in a memory accessible to the internal processor. By changing the program, or memory contents, the present system allows the operating program of the IMD to be dynamically tailored to a particular patient or condition. In various embodiments, the operating system, or memory contents of the IMD is changed using wireless communication. Hatlestad teaches the prioritizing engine to be external (see for example Hatlestad paragraph 87-88, 92-93 and 176-181 and Figs 10, 27-28). Hatlestad teaches data that includes therapy and diagnostic data (see for example Hatlestad paragraph 41). Hatlestad further teaches a remote monitor that can access the PDA/prioritization engine (see for example Fig. 7 and paragraphs 87-88).

Reuter and Hatlestad teaches the limitations above, however it does not explicitly, teach that it is performed for multiple patients, and that is where Duffin is used. As stated in the Final Rejection, Duffin teaches, a management system for monitoring implanted medical devices that provides data collection to one central site from all study patients (see for example Duffin column 14 lines 25-29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rueter, Hatlestad and Duffin. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

With respect to claim 33-36, 38 Appellant argues that the prior art does not teach the limitation of instructions for causing a programmable processor to interrogating, with *one or more monitors*, a plurality of medical devices implanted in different patients to obtain event data, receiving with a prioritization engine, the event data from one or more remote monitors, wherein the event data describes a plurality of events that includes at least a therapy event and a diagnostic event, and wherein the prioritization engine is external to the patients and assigning the prioritization engine a relative importance to each of the events described by the received event data. Examiner respectfully disagree.

The prior art in combination teaches the limitation. Rueter in column 1 lines 65-67 and column 1 lines 1-9, teaches the CPU performs all monitoring and data collection and from that collected data determines which data takes on clinical significance. Once the CPU determines that an event is clinically significant, the CPU will allocate memory in the RAM for storage of data with respect to that event If the available memory is full the CPU determines whether the new event is either more important than a previously stored event. If so, then the previously stored event is overwritten by data from the new event or the old, new, or both old and new data are compressed so that both can be stored. *In this case, the prioritization engine is the CPU.*

Furthermore Hatlestad teaches synthesize the at least one environmental parameter with the at least one IMD parameter and to report resulting data for use to assist with patient health care decisions (*presenting, with a user interface device, a list of patient and a list of the events for each patient based on the prioritization*) as shown

on Claim 14. Hatlestad teaches the prioritizing engine to be external (see for example Hatlestad paragraph 87-88, 92-93 and 176-181 and Figs 10, 27-28). Hatlestad teaches data that includes therapy and diagnostic data (see for example Hatlestad paragraph 41). Hatlestad further teaches a remote monitor that can access the PDA/prioritization engine (see for example Fig. 7 and paragraphs 87-88). Hatlestad teaches in paragraph 58 the IMD (implantable medical device) includes a program executing on an internal processor that controls the operation of the IMD. The program instructions reside in a memory accessible to the internal processor. By changing the program, or memory contents, the present system allows the operating program of the IMD to be dynamically tailored to a particular patient or condition. In various embodiments, the operating system, or memory contents of the IMD is changed using wireless communication

Reuter and Hatlestad teaches the limitations above, however it does not explicitly, teach that it is performed for multiple patients, and that is where Duffin is used. As stated in the Final Rejection, Duffin teaches, a management system for monitoring implanted medical devices that provides data collection to one central site *from all study patients* (see for example Duffin column 14 lines 25-29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rueter, Hatlestad and Duffin. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did

separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

With respect to claim 39-41, 43 Appellant argues that the prior art does not teach a prioritization engine to receive events from a plurality of remote monitors the event data from one or more remote monitors, and to prioritize the received events, wherein each of the remote monitors obtains the events from interrogation of a medical device implanted within a different patient wherein the events include therapy events and diagnostic events and a wherein the prioritization engine and the remote monitors are external to the patient... a database to store the prioritized events.... Examiner respectfully disagree.

The prior art in combination teaches the limitation. Rueter in column 1 lines 65-67 and column 1 lines 1-9, teaches the CPU performs all monitoring and data collection and from that collected data determines which data takes on clinical significance. Once the CPU determines that an event is clinically significant, the CPU will allocate memory in the RAM for storage of data with respect to that event If the available memory is full the CPU determines whether the new event is either more important than a previously stored event. If so, then the previously stored event is overwritten by data from the new event or the old, new, or both old and new data are compressed so that both can be stored. *In this case, the prioritization engine is the CPU.* Regarding the alleged

missing database to store the prioritized events, as discussed above, Reuter prioritizes the events, to save an event that has a high clinical significance.

Furthermore Hatlestad teaches synthesize the at least one environmental parameter with the at least one IMD parameter and to report resulting data for use to assist with patient health care decisions (*presenting, with a user interface device, a list of patient and a list of the events for each patient based on the prioritization*) as shown on Claim 14. Hatlestad teaches the prioritizing engine to be external (see for example Hatlestad paragraph 87-88, 92-93 and 176-181 and Figs 10, 27-28). Hatlestad teaches data that includes therapy and diagnostic data (see for example Hatlestad paragraph 41). Hatlestad further teaches a remote monitor that can access the PDA/prioritization engine (see for example Fig. 7 and paragraphs 87-88). Hatlestad further teach various embodiments that include *multiple WMDs (wellness monitoring device)*, the WMDs are able to communicate with each other, as shown via communication link 107. In various embodiments, the WMD(s) includes portable devices 108 that are external to the body of patient such as a PDA, (variously referred to as a personal digital, or data, assistant), a portable telephone (including a cellular telephone or a cordless telephone), a pager (one way or two way), a handheld, palm-top, laptop, portable or notebook computer, or other such battery operated portable communication device. IN various embodiments, the WMD(s) includes programmers. In various embodiments, the WMD(s) includes various non-portable devices such as larger computers or computer enterprise systems (paragraph 50).

Reuter and Hatlestad teaches the limitations above, however it does not explicitly, teach that it is performed for multiple patients, and that is where Duffin is used. As stated in the Final Rejection, Duffin teaches, a management system for monitoring implanted medical devices that provides data collection to one central site *from all study patients* (see for example Duffin column 14 lines 25-29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rueter, Hatlestad and Duffin. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

With respect to claim 5 and 6, Appellant argues with the same reason given on claim 1. Examiner respectfully disagrees and refers to the argument presented above.

With respect to claim 14 and 15, Appellant argues with the same reason given on claim 8. Examiner respectfully disagrees and refers to the argument presented above.

With respect to claim 26 and 27, Appellant argues with the same reason given on claim 17. Examiner respectfully disagrees and refers to the argument presented above.

With respect to claim 20, 21 and 46, Appellant argues with the same reason given on claim 17. Examiner respectfully disagrees and refers to the argument presented above.

With respect to 42, Appellant argues with the same reason given on claim 39. Examiner respectfully disagrees and refers to the argument presented above.

With respect to 45, Appellant argues with the same reason given on claim 1. Appellant further argues that the prior art does not include presenting the list of the patients..... Examiner respectfully disagree.

The prior art in combination teaches the limitation. Rueter in column 1 lines 65-67 and column 1 lines 1-9, teaches the CPU performs all monitoring and data collection and from that collected data determines which data takes on clinical significance. Once the CPU determines that an event is clinically significant, the CPU will allocate memory in the RAM for storage of data with respect to that event If the available memory is full the CPU determines whether the new event is either more important than a previously stored event. If so, then the previously stored event is overwritten by data from the new event or the old, new, or both old and new data are compressed so that both can be stored. *In this case, the prioritization engine is the CPU.*

Furthermore Hatlestad teaches synthesize the at least one environmental parameter with the at least one IMD parameter and to report resulting data for use to assist with patient health care decisions (*presenting, with a user interface device, a list*

of patient and a list of the events for each patient based on the prioritization) as shown on Claim 14. Hatlestad teaches the prioritizing engine to be external (see for example Hatlestad paragraph 87-88, 92-93 and 176-181 and Figs 10, 27-28). Hatlestad teaches data that includes therapy and diagnostic data (see for example Hatlestad paragraph 41). Hatlestad further teaches a remote monitor that can access the PDA/prioritization engine (see for example Fig. 7 and paragraphs 87-88).

Reuter and Hatlestad teaches the limitations above, however it does not explicitly, teach that it is performed for multiple patients, and that is where Duffin is used. As stated in the Final Rejection, Duffin teaches, a management system for monitoring implanted medical devices that provides data collection to one central site *from all study patients* (see for example Duffin column 14 lines 25-29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rueter, Hatlestad and Duffin. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/REGINALD R REYES/

Examiner, Art Unit 3626

Conferees:

/Robert Morgan/

Supervisory Patent Examiner, Art Unit 3626

/Vincent Millin/

Appeals Practice Specialist